IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 7620 of 1995

Between:

1 Jayam Bala Subbaiah gari Aswarthamma

W/o. Late Jayam Bala Subbaiah gari Subba Rayappa
R/o. Kalyanadurg Village, Kalyan Durg Mandal, Anantapur District.
2 Jayam Subba Rayappa gari Nagaraj S/o. Late Jayam

Bala Subbaiah gari Subba Rayappa
R/o. Kalyanadurg Village, Kalyan Durg Mandal, Anantapur District.
3 J.S. Ravindranath S/o. Late J. B. Subba Rayappa
R/o. Kalyanadurg Village, Kalyan Durg Mandal, Anantapur District.
4 J.S. Dwarakanath S/o. Late J. B. Subba Rayappa
R/o. Kalyanadurg Village, Kalyan Durg Mandal, Anantapur District.
5 J.S. Venkatesulu S/o. Late J. B. Subba Rayappa
R/o. Kalyanadurg Village, Kalyan Durg Mandal, Anantapur District.

..... PETITIONERS

AND

1 The District Collector,
Anantapur.
2 Revenue Divisional Officer, Dharmavaram
Anantapur District.
3 Mandal Revenue Officer,
Kambadur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or direction declaring the notification and declaration issued under Section 4(1) and Section 6 of the Land

Acquisition Act published in Eenadu daily dated 23.3.1994 and 8.4.1995 as illegal arbitrary and contrary to the provisions of the Land Acquisition Act as the Hon'ble Court feels deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.O.MANOHER REDDY

Counsel for the Respondents: GP FOR LAND ACQUISITION AND SOCIAL WELFARE

The Court made the following:

ORDER:

This writ petition is filed questioning the notification issued under Section-4 (1) of the Land Acquisition Act (for brevity 'the Act') notifying the land of the petitioners admeasuring Ac.4-00 cents in Sy.No.52-3 of Pallur Village, H/o Venkatampalli, Kambadur Mandal, Anantapur District, for providing house sites to backward classes and economically backward classes of Pallur Village.

The acquisition proceedings are mainly questioned on the ground that there was no declaration within the statutory period of one year from the date of publication of notification under Section-4 (1) of the Act. Further, it is the case of the petitioners that though enquiry was not dispensed with, notices were not served on them in the enquiry contemplated under Section-5 (a) of the Act.

In the counter-affidavit filed on behalf of the respondents, it is stated that notification under Section-4 (1) of the Act was approved by the Collector, Anantapur District, vide proceedings Rc.D4/2948/94, dated 13.03.1994 and the same was published in Anantapur District gazette dated 15.03.1994. So far as the declaration under Section-

(6) of the Act is concerned, the same was published in Anantapur District gazette on 10.11.1994. Further, with regard to the enquiry conducted under Section-5 (a) of the Act, it is stated that notices were served on the petitioners on the field, as the pattadars are not residing in the village.

So far as the first ground raised by the petitioners is concerned, i.e., the declaration was not published within a statutory period of one year from the date of notification, the same cannot be accepted for the reason that the notification under Section-4 (1) of the Act was published in the District gazette on 15.03.1994 whereas the declaration under Section-6 of the Act was published on 10.11.1994 i.e., within the statutory period prescribed under the statute. But, however with regard to the conducting of enquiry, it appears that no effort was made to serve notices on the petitioners and the enquiry was completed on the ground that there was no objection from the pattadars. Inasmuch as no notices were served on the petitioners even according to the averments in the counter-affidavit and further, in view of the fact that all through the pendency of the writ petition, there was interim order protecting the rights of the petitioners, I set-aside the declaration issued under Section-6 of the Act published in the gazette on 10.11.994, and direct the respondents to conduct enquiry afresh by issuing notices to the petitioners before taking further steps in the acquisition proceedings. The petitioners shall file the objections, if any, indicating their present address, within a period of six weeks from the date of receipt of a copy of this order without waiting for any further notice from the respondents. On filing such objections, it is open for the respondents to conduct and complete the enquiry as expeditiously as possible. If no objections are filed within the time referred above, it is open for the respondents to take further steps in the matter and proceed in accordance with the provisions of the land acquisition Act.

Subject to the above directions, the writ petition is allowed. No order as to costs.

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(R.SUBHASH REDDY, J)

03.02.2005

dr

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the third day of February, Two thousand and five.

To

1 The District Collector,
Anantapur District, Anantapur.
2 Revenue Divisional Officer, Dharmavaram,
Anantapur District.
3 Mandal Revenue Officer,
Kambadur, Anantapur District.

4 2 CCs to Government Pleader for Land Acquisition and Social Welfare, High

Court Buildings, Hyderabad. (OUT)

5 2 CD copies